

ESTTA Tracking number: **ESTTA493518**

Filing date: **09/10/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91205924
Party	Defendant LI-WEI CHIH
Correspondence Address	J. WAYNE HOU JUNWEI WAYNE HOU, P.C. 101 CHESTNUT ST STE 220B GAITHERSBURG, MD 20877-2103 jwhou@jwhoulaw.com
Submission	Answer
Filer's Name	Jeffrey Pokorak
Filer's e-mail	jpokorak@suffolk.edu
Signature	/Jeffrey Pokorak/
Date	09/10/2012
Attachments	MAnswer.pdf (6 pages)(52695 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

MONSTER ENERGY COMPANY)	Opposition No. 91205924
Opposer,)	Serial No. 85/508,374
)	Mark:
v.)	
)	
CHIH, LI-WEI)	
Applicant)	



ANSWER TO NOTICE OF OPPOSITION

COMES NOW the Applicant, Li-Wei Chih, to Answer the Notice of Opposition as filed by Monster Energy Company. In its Notice of Opposition, Monster Energy Company has alleged that it will suffer damage under §2(d) and §43(c) of the Lanham Act on account of the registration of U.S. Trademark Application Serial No. 85/508,374 (“Application”) for the mark “M,” shown above, as owned by Li-Wei Chih. Applicant denies that such damage will occur to Opposer and states the reasons herein.

OPPOSER’S ALLEGATIONS

In correspondence with Opposer’s allegations as contained within its Notice of Opposition, Applicant answers as follows:

1. Admitted.
2. Applicant is without knowledge or information sufficient to form a belief as to truth of Opposer's averments in paragraph 2.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer's averments in paragraph 3.
4. It is admitted that Opposer owns U.S. Trademark Registration 4,051,650 for the "M" mark. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer's remaining averments in paragraph 4.
5. It is admitted that Opposer owns U.S. Trademark Registration 3,908,601 for the "M" mark. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer's remaining averments in paragraph 5.
6. It is admitted that Opposer owns U.S. Trademark Registration 2,903,214 for "M" mark. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer's remaining averments in paragraph 6.
7. It is admitted that Opposer owns U.S. Trademark Registration 3,434,821 for "M" mark for "Nutritional supplements." Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer's remaining averments in paragraph 7.
8. Admitted.
9. Admitted.
10. Admitted.
11. Admitted.
12. Admitted.
13. Admitted.

14. Admitted.

15. It is admitted that Opposer owns U.S. Trademark Registration 3,134,841 for the mark “M.” Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer’s remaining averments in paragraph 15.

16. It is admitted that Opposer owns U.S. Trademark Registration 3,134,842 for the mark M MONSTER ENERGY. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer’s remaining averments in paragraph 16.

17. It is admitted that Opposer owns U.S. Trademark Registration 3,044,134 for the mark M MONSTER ENERGY. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer’s remaining averments in paragraph 16.

18. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer’s averments in paragraph 18.

19. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer’s averments in paragraph 19.

20. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer’s averments in paragraph 20.

21. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer’s averments in paragraph 21.

22. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer’s averments in paragraph 22.

23. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer’s averments in paragraph 23.

24. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer's averments in paragraph 24.

25. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer's averments in paragraph 25.

26. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer's averments in paragraph 26.

27. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer's averments in paragraph 27.

28. Admitted.

29. Admitted.

AFFIRMATIVE DEFENSES

For its affirmative defenses, Applicant asserts as follows:

1. Opposer has failed to state a claim upon which relief can be granted.
2. There is no likelihood of confusion with Opposer's mark to bar registration of Applicant's mark under Lanham Act §2(d).
3. There is no dilution of Opposer's mark by Applicant's mark under Lanham Act §43(c).

Applicant reserves the right to add additional affirmative defenses as they become known through discovery.

WHEREFORE, Applicant prays that the opposition be dismissed with prejudice and that
“M”, subject of Serial No. 85/508,374, be registered on the Principal Register.

Respectfully Submitted,
Jeffrey Pokorak, Attorney for Applicant
120 Tremont St.
Boston, MA 02108
Tel: (617) 573-8100
Fax: (617) 742-2139

Dated: 9/10/12/

By: /Jeffrey Pokorak/

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION upon Opposer by depositing one copy thereof in the United States Mail, first-class postage prepaid, on September 10, 2012, addressed as follows:

Steven J. Nataupsky
Lynda Zadra-Symes
Diane M. Reed
Brigette B. Chaput
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, Fourteenth Floor
Irvine, CA 92614

/Jeffrey Pokorak/
Jeffrey Pokorak
ATTORNEY FOR APPLICANT
120 Tremont St.
Boston, MA 02108
Tel: (617) 573-8100
Fax: (617) 742-2139